



#111
1/8/08

THE CITY OF SAN DIEGO
MAYOR JERRY SANDERS

M E M O R A N D U M

DATE: January 4, 2008

TO: Honorable Council President Peters and Members of the City Council

FROM: Elizabeth Kelly, Debt Manager, Debt Management Department

SUBJECT: Item-111: Ordering Foreclosure Actions Against Delinquent Parcels of Land,
Docket of January 8, 2008

Item-111, Ordering Foreclosure Actions Against Delinquent Parcels of Land, will be considered at the January 8, 2008 City Council Meeting. This item would authorize the filing of judicial foreclosure lawsuits against certain parcels that are delinquent in the payment of special assessments associated with Reassessment District 1999-1 and Reassessment District 2003-1. As described in the Executive Summary Sheet for this item, the four parcels included in the action had exceeded the delinquency thresholds established under the applicable bond documents for the districts. Please be advised that, based on information received from the County Treasurer-Tax Collector's Office on January 3, 2008, one of the parcels listed in the Executive Summary Sheet for this item no longer meets the delinquency threshold and is being deleted from this action. The subject parcel that will no longer be part of the action is Assessor's Parcel No. 646-210-36-00, which is associated with Reassessment District 2003-1. Accordingly, the City Attorney's Office has prepared and submitted a revised resolution to delete the subject parcel. A copy of the revised resolution is also provided as an attachment to this memorandum.

A handwritten signature in cursive script that reads "Elizabeth Kelly".

Elizabeth Kelly

Attachment: Revised Resolution for Item #111, Docket of January 8, 2008, prepared by
City Attorney's Office

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES AND SPECIAL ASSESSMENTS PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, THE IMPROVEMENT BOND ACT OF 1915 AND THE REFUNDING ACT OF 1984 FOR 1915 IMPROVEMENT ACT BONDS, ORDERING THAT THE TAX COLLECTOR BE CREDITED WITH THOSE INSTALLMENTS.

WHEREAS, the City of San Diego, a California municipal corporation [City] has conducted special district proceedings from time to time, resulting in the issuance and sale of special tax and improvement bonds pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code section 53311, *et seq.*) [Mello-Roos Act], the Improvement Bond Act of 1915 (California Streets & Highways Code section 8500, *et seq.*) [1915 Act], and refunding bonds pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds (California Streets & Highways Code section 9500, *et seq.*) [1984 Act]; and

WHEREAS, pursuant to the Mello-Roos Act, the 1915 Act and the 1984 Act, the City has duly and regularly issued and filed and recorded the unpaid special taxes, assessments and reassessments [taxes and assessments], which taxes and assessments and each installment thereof and interest and penalties thereon constitute a lien against the parcel of land against which it was made until the same are paid, and which liens secure Mello-Roos Act, 1915 Act or 1984 Act bonds [Bonds]; and

WHEREAS, certain installments of the taxes and assessments have not been paid when due, and certain installments of the taxes and assessments may not be paid in the future; and

WHEREAS, pursuant to Section 53356.1(a) of the Mello-Roos Act, Section 8830(a) of the 1915 Act, and Section 9350 of the 1984 Act, the City is authorized to order the delinquent amounts collected by an action brought in the Superior Court to foreclose the liens thereof; and

WHEREAS, pursuant to Section 53356.1(b) of the Mello-Roos Act and Section 8830(b) of the 1915 Act, the City has covenanted for the benefit of owners of the Bonds to file such foreclosure actions in its own name on their behalf, and to order the County Auditor to credit delinquent installments upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto; and

WHEREAS, the City has retained Sherman & Feller, a Law Corporation [Special Counsel], as special counsel to prosecute such judicial foreclosure actions; NOW, THEREFORE,


BE IT RESOLVED by the City Council of the City of San Diego [Council] as follows:

1. The Council finds that the Mello-Roos Act, the 1915 Act, and the 1984 Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special tax special assessment installments, and hereby orders that the delinquent special tax and special assessment installments listed on Exhibit A attached hereto, and all future delinquent special tax and special assessment installments as to such parcels, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

2. The Council finds that the Mello-Roos Act, the 1915 Act, and the 1984 Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits authorized by the Council, and hereby authorizes Special Counsel to require payment of all costs and all attorneys fees incurred in the applicable foreclosure lawsuit as a condition of such redemption.

3. City personnel in conjunction with Special Counsel and other City consultants are authorized and directed to: 1) record applicable notices of intent to remove the delinquent special tax and assessment installments from the tax rolls, and 2) request that the County Auditor remove current and future delinquent special tax and assessment installments from the tax rolls.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Mark D. Blake
Chief Deputy City Attorney

MDB:amt:jdf
11/16/2007
01/04/2007.Corr.Copy
Or.Dept: Department of Finance—Debt Management
R-2008-440

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

EXHIBIT A

Special District	Assessor's Parcel No.	Tax Year Periods (1)	Number of Delinquent Installments	Total Delinquent Amount (3)
Reassessment District 1999-1	646-160-15-00	2004 - 2007	6	\$ 12,082.96
Reassessment District 2003-1	646-150-37-00 (2)	2004 - 2007	4	\$ 6,545.90
	646-150-38-00 (2)	2004 - 2007	4	\$ 6,545.90
Total				\$ 25,174.76

(1) A tax year period is from July 1 to June 30 and consists of two installment payment deadlines: December 10 and April 10.

(2) Parcels 646-150-37 & 646-150-38 have the same property owner of record.

(3) Total Delinquent Amounts do not include late payment penalties.

EXHIBIT A

Special District	Assessor's Parcel No.	Tax Year Periods (1)	Number of Delinquent Installments	Total Delinquent Amount (3)
Reassessment District 1999-1	646-160-15-00	2004 - 2007	6	\$ 12,082.96
Reassessment District 2003-1	646-210-36-00	2004 - 2007	3	\$ 12,220.32
	646-150-37-00 (2)	2004 - 2007	4	\$ 6,545.90
	646-150-38-00 (2)	2004 - 2007	4	\$ 6,545.90
Total				\$ 37,395.08 \$ 25,174.76

(1) A tax year period is from July 1 to June 30 and consists of two installment payment deadlines: December 10 and April 10.

(2) Parcels 646-150-37 & 646-150-38 have the same property owner of record.

(3) Total Delinquent Amounts do not include late payment penalties.

001735

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ON) 01/08
N/A 111

TO: CITY ATTORNEY
2. FROM (ORIGINATING DEPARTMENT): Department of Finance – Debt Management
3. DATE: October 31, 2007

4. SUBJECT: Ordering Foreclosure Actions Against Delinquent Parcels of Land

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.) Elizabeth Kelly, 236-6932 MS 7B
6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.) Alex Bragado, 533-6477 MS 7B
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED ☐

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST: See Executive Summary
DEPT.					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	11/1/07	8	CFO / DEPUTY CHIEF	<i>[Signature]</i>	11/13/07
2	EAS	<i>[Signature]</i>	11/6/07	9	COO	<i>[Signature]</i>	11/13/07
3	EOCP	<i>[Signature]</i>	11-8-7	10	CITY ATTORNEY	<i>[Signature]</i>	11/14/07
4	LIAISON OFFICE	<i>[Signature]</i>	11/9/07	11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	11/20/07
5	AUDITOR	<i>[Signature]</i>	11/13/07	DOCKET COORD: <i>[Signature]</i> 11/28/07 COUNCIL LIAISON: <i>[Signature]</i> 11/27/07			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 1/8/08			
7							

11. PREPARATION OF: ☒ RESOLUTION(S) ☐ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)

Resolution authorizing and ordering the filing of judicial foreclosure lawsuits related to certain delinquent assessments

11A. STAFF RECOMMENDATIONS:

Adopt the resolution.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): District 8
COMMUNITY AREA(S): OTAY MESA
ENVIRONMENTAL IMPACT: This activity is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines.
HOUSING IMPACT: None
OTHER ISSUES: None

**EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE ISSUED: _____ REPORT NO: _____
 ATTENTION: Council President and City Council
 ORIGINATING DEPARTMENT: Department of Finance – Debt Management
 SUBJECT: Ordering Foreclosure Actions Against Delinquent Parcels of Land
 COUNCIL DISTRICT(S): District 8
 CONTACT/PHONE NUMBER: Elizabeth Kelly (619-236-6932)

REQUESTED ACTION:

City Council adoption of a resolution authorizing and ordering the filing of judicial foreclosure lawsuits related to certain delinquent assessments.

STAFF RECOMMENDATION:

Staff recommends adoption of the resolution.

EXECUTIVE SUMMARY:

Certain property owners have become delinquent with respect to the payment of assessments associated with Reassessment District 1999-1 and Reassessment District 2003-1. Bonds have been issued in connection with these districts, and such bonds are secured solely by assessments levied upon individual properties within the districts. The City is compelled under the bond covenants contained within the bond financing documents authorized in connection with the districts to commence foreclosure actions against delinquent parcels when certain thresholds are reached, as set forth in the bond documents. The delinquent amounts for each of the parcels listed below and subject to this proposed action have exceeded the delinquency thresholds established under the applicable bond documents.

Special District	Assessor's Parcel No.	Tax Year Periods ⁽¹⁾	Number of Delinquent Installments	Total Delinquent Amount ⁽³⁾
Reassessment District 1999-1	646-160-15-00	2004 - 2007	6	\$ 12,082.96
Reassessment District 2003-1	646-210-36-00	2004 - 2007	3	\$ 12,220.32
	646-150-37-00 ⁽²⁾	2004 - 2007	4	\$ 6,545.90
	646-150-38-00 ⁽²⁾	2004 - 2007	4	\$ 6,545.90
Total				\$ 37,395.08

(1) A tax year period is from July 1 to June 30 and consists of two installment payment deadlines: December 10 and April 10.

(2) Parcels 646-150-37 & 646-150-38 have the same property owner of record.

(3) Total Delinquent Amounts do not include late payment penalties.

The City has provided each property owner of record of the subject parcels with delinquency notices and has advised each property owner of the City's intention to begin the foreclosure process if payment is not forthcoming. Delinquent amounts remain outstanding for each parcel; therefore, approval of this proposed action to order the filing of a judicial foreclosure lawsuit against each such parcel is recommended. If approved, the City, in conjunction with outside foreclosure counsel, would file the appropriate judicial foreclosure lawsuits and take such other associated actions necessary to collect the delinquent special taxes. A foreclosure lawsuit is terminated at any time before a parcel is sold at a judicial foreclosure sale so long as the delinquent amounts, penalties, and attorneys fees are paid.

FISCAL CONSIDERATIONS:

There will be no fiscal impact to the City as a result of this action. However, this action will facilitate recovery of the delinquent amounts to the Debt Service Fund of the district. All costs related to the foreclosure actions would be reimbursed as part of the delinquency recovery or would be funded by the City's Special Assessment District Delinquency Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None related to this proposed action. However, the Council has approved similar actions in the past, most recently Resolution R-302303, dated February 07, 2007, approving foreclosure lawsuits involving other previously delinquent parcels of land within certain of the City's Community Facilities Districts.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

No outreach required to the general public. However, as described above, subject property owners have been provided with notices regarding their delinquent status and advising them of the City's intention to begin the foreclosure process if payment is not forthcoming.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- Property owners within the above referenced Special Assessment Districts who are delinquent in the payment of the associated assessments are therefore subject to this foreclosure action.
- Investors who hold the associated bonds of the districts who receive principal and interest payments on the bonds payable from the annual assessments. The City has covenanted with the bondholders, through the bond documents, to foreclose on properties with total delinquent amounts meeting certain established thresholds.



Lakshmi Kommi
Debt Management Director



Jay M. Goldstone
Chief Operating Officer

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO, CALIFORNIA, ORDERING JUDICIAL
FORECLOSURE OF DELINQUENT SPECIAL TAXES AND
SPECIAL ASSESSMENTS PURSUANT TO THE MELLO-
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IMPROVEMENT BOND ACT OF 1915 AND THE
REFUNDING ACT OF 1984 FOR 1915 IMPROVEMENT ACT
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CREDITED WITH THOSE INSTALLMENTS.

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WHEREAS, pursuant to the Mello-Roos Act, the 1915 Act and the 1984 Act, the City has duly and regularly issued and filed and recorded the unpaid special taxes, assessments and reassessments [taxes and assessments], which taxes and assessments and each installment thereof and interest and penalties thereon constitute a lien against the parcel of land against which it was made until the same are paid, and which liens secure Mello-Roos Act, 1915 Act or 1984 Act bonds [Bonds]; and

WHEREAS, certain installments of the taxes and assessments have not been paid when due, and certain installments of the taxes and assessments may not be paid in the future; and

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foreclosure actions in its own name on their behalf; and to order the County Auditor to credit delinquent installments upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto; and

WHEREAS, the City has retained Sherman & Feller, a Law Corporation [Special Counsel], as special counsel to prosecute such judicial foreclosure actions; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego [Council] as follows:

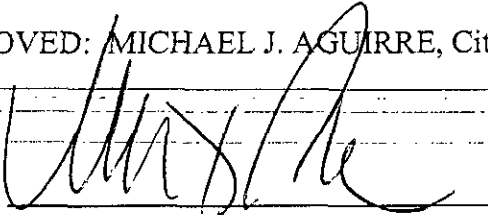
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2. The Council finds that the Mello-Roos Act, the 1915 Act, and the 1984 Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits authorized by the Council, and hereby authorizes Special Counsel to require payment of all costs and all attorneys fees incurred in the applicable foreclosure lawsuit as a condition of such redemption.

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APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Mark D. Blake
Chief Deputy City Attorney

MDB:amt

11/16/2007

Or.Dept: Department of Finance—Debt Management

R-2008-440

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

EXHIBIT A

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